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### **THE LAW OF FINANCIAL DERIVATIVES IN CANADA**

**Grottenthaler & Henderson  
Release No. 2, December 2025**

This service is the only Canadian reference book for derivative lawyers and learning tool for novices. It provides a detailed review of the significant legal issues affecting derivatives transactions in Canada, including an introduction to the different types of derivatives transactions, an introduction to derivatives documentation, a detailed review of enforceability issues (including enforceability against insolvent counterparties), collateralization of transactions, regulatory issues (including securities law issues), duties owed in derivatives relationships and the tax treatment of various types of transactions with Canadian counterparties.

This release features updates to Appendix E1 (Canadian Statutory Provisions Relevant to Close-out Netting and Collateral Enforcement).

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## Highlights

**Appendix E—Insolvency Legislation Excerpts—Appendix E1—Canadian Statutory Provisions Relevant to Close-out Netting and Collateral Enforcement**—Bankruptcy and insolvency—Priorities of claims—Secured claims—Forms of secured interests—Liens—Miscellaneous—Parties in bankruptcy matter were originally parties to contract for sale and purchase of natural gas—Bankrupt company was granted protection under *Companies’ Creditors Arrangement Act* in 2019—Bankrupt company sent corporation disclaimer notice, regarding contract between parties—Corporation successfully applied to find that contract was eligible financial contract—Company was indebted to third party lenders—Lenders sought declaration that they had first priority interest in company’s property—Corporation claimed company was obligated to perform remainder of contract—Corporation also claimed equitable relief—Parties applied for above-noted relief—Lenders granted declaratory relief, as to first priority interest in property of company—Corporation’s claim as to obligation dismissed—Corporation did not have right to subject funds or to lift stay—Corporation was not entitled to equitable relief—Disclaimer provisions did not require performance of contract—Rather, these provisions provided opportunity for orderly termination of contract when necessary. (*Bellatrix Exploration Ltd. (Re)*, 2020 CarswellAlta 2545, 2020 ABQB 809)

**Appendix E—Insolvency Legislation Excerpts—Appendix E1—Canadian Statutory Provisions Relevant to Close-out Netting and Collateral Enforcement**—Securities—Commissions and exchanges—Orders—Public interest orders—Natural gas company was taken over by another company—Natural gas company allegedly made financial misrepresentations—Securities Commission brought proceedings under *Securities Act* against CEO and CFO of natural gas company for failure to disclose—Officers found to have violated Act—Three of six leases for gas properties were improperly treated as operating leases rather than capital leases—Natural gas company obtained benefits of ownership from capital leases—Misclassification of leases affected financial statements and were not in accordance with GAAP—Officers were directly responsible for failure to meet disclosure requirement, and withheld relevant information from auditor—Officers responsible for misrepresentation of long-term debt—Officers violated Act by misrepresenting production and reserves in certain materials—Methodology used to measure gas was not sufficiently explained or in conformity with industry standard—Statements regarding ability to capture higher prices were not misstatements—Statements about future performance were properly qualified—News release made misrepresentation by not mentioning reduction of daily production estimates—Officers were sophisticated businesspersons with responsibility for corporate matters—Failure to disclose fact that lenders demanded debt reduction or raising capital not misrepresentation—Officers not required to disclose change in production in pre-takeover period, or revisions of forecast—Debt negotiations were not finalized at time of certain disclosure documents—Actual liquidity was not sufficiently jeopardized to require disclosure—Natural gas company not required to disclose contracts portfolio—Revision to production forecast was material and required disclosure in director’s circular—Some significant spot market purchases required disclosure in director’s circular—CEO was responsible for failure to disclose spot market purchases, CFO was not. (*Ironside, Re*, 2006 CarswellAlta 2477, 2006 ABASC 1930)